



PTABOA

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Appeals Administration

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- *** The Department of Local Government Finance does not get involved in individual property tax assessments or appeals. The following information should not be construed as legal advice, and any legal questions or issues should be directed to your county attorney.



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Definitions:

- A. Market Value-in-Use:** “The market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property.”
- B. Market Value:** “The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.”



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- C. True Tax Value:** “In the case of agricultural land, the value determined in accordance with the Guidelines adopted by the Department of Local Government Finance. True Tax Value means market value-in-use as defined in this manual.”
- D. Assessment Date:** “March 1 of any year.”
- E. Valuation Date:** “The date as of which a property's value is estimated.” ***The assessment date and valuation date are the same (e.g. March 1, 2014). Please note: Per SEA 420-2014, the assessment date of real property will change to January 1 starting with the 2016-pay-2017 tax cycle. March 1 will remain the real property assessment date for the 2014-pay-2015 and the 2015-pay-2016 tax cycles.**



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- “True tax value” \neq fair market value.
- “True tax value” = “market value-in-use” of a property for its current use, as reflected by the utility received from the property
- IC 6-1.1-31-6(c) & Manual



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Legislative Update/Changes:

A. HEA 1234-2014 and SEA 421-2014:

- Effective July 1, 2014, both HEA 1234 and SEA 421, among other things, make changes to the law respecting the composition of county property tax assessment boards of appeals (“PTABOA”), and establishes standards of conduct for assessors, appraisers, and tax representatives.
- The Acts have identical provisions concerning these subject matters. However, because each Act contains additional provisions not found in the other, though concerning entirely different subjects, this update will include citations to both Acts.



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- **Composition of County PTABOAs, IC 6-1.1-28-1**
- Section 3 of HEA 1234 and Section 1 of SEA 421 amend IC 6-1.1-28-1 respecting PTABOAs, in the following ways.
- First, in a county with a five-member PTABOA, the county fiscal body may waive the requirement that at least one (1) of the PTABOA members appointed by the fiscal body must be a certified level two or level three assessor-appraiser. In a county with a three-member PTABOA, the county fiscal body may waive the requirement that the PTABOA member appointed by the fiscal body must be a certified level two or level three assessor-appraiser.



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- Second, an employee of the township assessor or county assessor (“employee”), or a professional appraiser that contracts with a county (“appraiser”) may not serve as a voting member of a PTABOA in a county where the employee or appraiser is employed.



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- **Assessor, Appraiser, and Tax Representative Standards of Conduct, IC 6-1.1-35.7**
- Section 4 of HEA 1234 and Section 2 of SEA 421 add IC 6-1.1-35.7 as a new chapter to the Indiana Code establishing standards of conduct for assessors, appraisers, and tax representatives.
- Definitions, IC 6-1.1-35.7-1 & 6-1.1-35.7-2
- “Appraiser” has the meaning set forth in IC 6-1.1-31.7-1; that is, “a professional appraiser or a professional appraisal firm that contracts with a county under IC 6-1.1-4.”
- “Tax representative” means a person who represents another person at a proceeding before the county PTABOA or the Department of Local Government Finance (“Department”). The term does not include the following:



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- The owner of the property (or person liable for the taxes under IC 6-1.1-2-4) that is the subject of the appeal.
- A permanent full-time employee of the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) that is the subject of the appeal.
- A representative of the local government unit appearing on behalf of the unit.
- A certified public accountant (“CPA”), when the CPA is representing a client in a matter that relates only to personal property taxation.
- An attorney who is a member in good standing of the Indiana bar or any person who is a member in good standing of any other state bar and who has been granted leave by the Department to appear pro hac vice.



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Standards for Assessors & Appraisers, IC 6-1.1-35.7-3 & 6-1.1-35.7-4
An individual who is a township assessor, a county assessor, an employee of the township assessor or county assessor, or an appraiser shall adhere to the Uniform Standards of Professional Appraisal Practice in the performance of the individual's duties.

- An individual who is a township assessor, a county assessor, an employee, or an appraiser shall not do any of the following:
- Conduct an assessment that includes the reporting of a predetermined opinion or conclusion.
- Misrepresent the individual's role when providing valuation services that are outside the practice of property assessment.



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- Communicate assessment results with the intent to mislead or defraud.
- Communicate a report that the individual knows is misleading or fraudulent.
- Knowingly permit an employee or other person to communicate a misleading or fraudulent report.
- Engage in criminal conduct.
- Willfully or knowingly violate the requirements of IC 6-1.1-35-9 (regarding release of confidential information).
- Perform an assessment in a grossly negligent manner.
- Perform an assessment with bias.



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- Advocate for an assessment. However, this provision does not prevent a township assessor, a county assessor, an employee, or an appraiser from defending or explaining the accuracy of an assessment and any corresponding methodology used in the assessment at a preliminary informal hearing, during settlement discussions, at a public hearing, or at the appellate level.



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Certification Appeal Board, IC 6-1.1-35.7-4(d) & (e)

New subsection IC 6-1.1-35.7-4(d) establishes a certification appeal board (“Board”). The sole purpose of the Board to conduct an appeal hearing regarding the Department’s revocation of a person’s assessor-appraiser certification based on a claim of gross incompetence. The Board consists of the following seven (7) members:

- Two (2) representatives of the Department appointed by the Department commissioner, who must designate one (1) of the appointed representatives as the chairperson of the board.
- Two (2) individuals appointed by the governor who must be township or county assessors.



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- Two (2) individuals appointed by the governor who must be licensed appraisers.
- One (1) individual appointed by the governor who must be a resident of Indiana.

Not more than four (4) members of the Board may be members of the same political party, and each member of the board serves at the pleasure of the person who appointed the member.

Under IC 6-1.1-35.7-4(e), the Board must meet as often as necessary to properly perform its duties.



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Revocation Based on Gross Incompetence and Appeals to the Board, IC 6-1.1-35.7-4(a) through (c)

- A township assessor, a county assessor, an employee, or an appraiser
- must be competent to perform a particular assessment;
- must acquire the necessary competency to perform the assessment; or
- shall contract with an appraiser who demonstrates competency to do the assessment.
- The Department may revoke the certification under 50 IAC 15 for gross incompetence in the performance of an assessment. An individual whose certification is revoked for gross incompetence may appeal the Department's decision to the Board.



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- A decision of the Board may be appealed to the Indiana Tax Court in the same manner that a final determination of the Department may be appealed under IC 33-26.
- Under IC 6-1.1-35.7-5, the Department may revoke a certification issued under 50 IAC 15 for not more than three (3) years if the Department determines by a preponderance of the evidence that the township assessor, county assessor, employee, or appraiser violated any provision of IC 6-1.1-35.7. If an appraiser's certification is revoked,



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- any contract for appraisal of property in Indiana that the appraiser has entered into is void; and
- the appraiser may not receive any additional payments under the contract.
- A contract entered into by the appraiser for appraisal of property in Indiana must contain a provision specifying that the contract is void if the appraiser's certification is revoked under IC 6-1.1-35.7.



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Tax Representative Standards of Conduct, IC 6-1.1-35.7-6 & 6-1.1-35.7-7

- A tax representative may not do any of the following:
- Use or participate in the use of any false, fraudulent, unduly influencing, coercive, unfair, misleading, or deceptive statement or claims with respect to any matter relating to the practice before the PTABOA or the Department.
- Knowingly misrepresent any information or act in a fraudulent manner.
- Prepare documents or provide evidence in a property assessment appeal unless the representative is authorized by the property owner (or person liable for the taxes under IC 6-1.1-2-4) to do so and any required authorization form has been filed.



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- Knowingly submit false or erroneous information in a property assessment appeal.
- Knowingly fail to use the appraisal standards and methods required by rules adopted by the Department, Indiana Board of Tax Review (“IBTR”), or PTABOA when the representative submits appraisal information in a property assessment appeal.
- Knowingly fail to notify the property owner (or person liable for the taxes under IC 6-1.1-2-4) of all matters relating to the review of the assessment of taxpayers' property before the PTABOA or the Department, including, but not limited to, the following:



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- The tax representative's filing of all necessary documents, correspondence, and communications with the PTABOA or Department.
- The dates and substance of all hearings, onsite inspections, and meetings.



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- The Department may revoke the certification of a tax representative for the following:
 - Violation of any rule applicable to certification or practice before the Department, the IBTR, or the PTABOA.
 - Gross incompetence in the performance of practicing before the PTABOA, the Department, or the IBTR.
 - Dishonesty, fraud, or material deception committed while practicing before the PTABOA, the Department, or the IBTR.
 - Dishonesty, fraud, material deception, or breach of fiduciary duty committed against the tax representative's employer or business associates.
 - Violation of the standards of ethics or rules of solicitation adopted by the Department.



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B. SEA 266-2014:

Effective upon passage, SEA 266 changes the law with respect to the burden of proof in property tax assessment appeals before the PTABOA.

- Section 1 of SEA 266 repeals IC 6-1.1-4-4.3, enacted during the 2013 regular session, which gave to the county assessor or township assessor (if any) (“local assessor”) the burden of proving that an assessment on real property not assessed using the income capitalization approach is correct, if the gross assessed value (“GAV”) was reduced by the PTABOA for the latest assessment date covered by the appeal, and the assessment increases the GAV above the reduced value set by the PTABOA.



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- Section 2 amends IC 6-1.1-15-17.2, which places the burden of proof on the local assessor if the assessment that is subject to the appeal is increased more than five percent (5%) over the prior year's assessment for that property.

In calculating the change in the assessment, the prior year's assessment is the original assessment for that prior tax year; or the assessment for that prior tax year

- as last corrected by the local assessor;
- as stipulated or settled during an informal conference with the local assessor; or
- as determined by the PTABOA under IC 6-1.1-15-1.



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- If the local assessor fails to meet the burden of proof, the taxpayer may introduce evidence to prove the correct assessment. If neither the assessing official nor the taxpayer meets the burden of proof, the assessment reverts to the prior year's assessment.
- Under new subsection IC 6-1.1-15-17.2(d), if the GAV of real property for an assessment date that follows the latest assessment date that was the subject of an appeal conducted under IC 6-1.1-15 increases above the GAV of the real property for the latest assessment date covered by the appeal, the local assessor has the burden of proving the assessment is correct, regardless of the amount of the increase. Subsection (d) does not apply for an assessment of real property valued using the income capitalization approach in the appeal.



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- The amendments to IC 6-1.1-15-17.2 apply to all appeal or reviews pending on the effective date of the amendments made in the 2014 Regular Session, and to all appeals or reviews filed thereafter.



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C. SEA 420-2014:

Change in Assessment Date for Tangible Property

- SEA 420 changes the assessment date of real property to January 1 starting with the 2016-pay-2017 tax cycle. March 1 will remain the real property assessment date for the 2014-pay-2015 and 2015-pay-2016 tax cycles.
- The assessment date for mobile homes moves to January 1 starting in 2017 (the pay-2017 cycle). January 15 remains the mobile home assessment date for the pay-2015 and pay-2016 tax cycles.



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Tax Cycle	Real Property Assessment Date	Mobile Home Assessment Date	First Installment of Taxes Due	Second Installment of Taxes Due
2014-pay- 2015	March 1, 2014	January 15, 2015	May 10, 2015	November 10, 2015
2015-pay- 2016	March 1, 2015	January 15, 2016	May 10, 2016	November 10, 2016
2016-pay- 2017	January 1, 2016	January 1, 2017	May 10, 2017	November 10, 2017
2017-pay- 2018	January 1, 2017	January 1, 2018	May 10, 2018	November 10, 2018



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D. HEA 1266-2014:

Section 19 of HEA 1266 amends IC 6-1.1-15-12 regarding the window of time for filing a Correction of Error Appeal ("Form 133"). This change was effective upon passage.

- Under IC 6-1.1-15-12, as amended, a taxpayer is not entitled to the remedies available through a Correction of Error Appeal unless the taxpayer files the appeal:
 - (1) with the auditor of the county in which the taxes were originally paid; and
 - (2) within three years after the taxes were first due.



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For example, a taxpayer seeking to file a Correction of Error Appeal concerning his November, 2011 property tax installment has until November 10, 2014 to do so. Indiana Code 6-1.1-15-12, as amended, now mirrors IC 6-1.1-26-1, which allows a person to seek a refund of a tax payment if a claim is filed within three years after the taxes were first due. In sum, a Correction of Error Appeal and corresponding claim for refund must be filed within three years after the taxes were first due.



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III. PTABOA Role/Responsibility:

- The assessor should have an appeal tracking process (see [http://www.in.gov/dlgf/files/100201 - Wood Memo - Assessment Appeals.pdf](http://www.in.gov/dlgf/files/100201_Wood_Memo_Assessment_Appeals.pdf)) to ensure all appeals are addressed in a timely manner.
- HEA 1001 – 2009 (ss) allows the county commissioners to determine if they want a three (3) or five (5) member PTABOA (effective July 1, 2009).
- The PTABOA must be comprised of individuals “knowledgeable in the valuation of property.”



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- Five (5) Member PTABOA:
 - Commissioners appoint three (3) members.
 - County fiscal body (i.e. Council) appoints two (2) members.
 - At least one (1) of the members appointed by the fiscal body must be a Level II or III assessor-appraiser.
 - At least one (1) of the commissioner's appointments must be a Level II or III; however, they may waive this requirement.
 - No more than 3 of the 5 members may be of the same political party, and at least 3 of the 5 are residents of the county.



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- Three (3) Member PTABOA
 - The county fiscal body appoints 1 individual who must be a Level II or III assessor-appraiser.
 - The commissioners appoint 2 freehold members. Not more than 2 of the members may be of the same political party and at least 2 of the members are residents of the county.
 - At least 1 of the commissioner's appointments must be a Level II or III; however, they may waive this requirement.



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- Compensation & policies are local issues.
- Board members shall receive compensation on a per diem basis for each day of actual service.
- The county council shall fix the rate of compensation.
- The county assessor shall keep an attendance record
- Certifies the number of days to the county commissioners.



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- The Board has the power to:
 - Subpoena witnesses
 - Examine witnesses, under oath, on the assessment or valuation of property
 - Compel witnesses to answer its questions relevant to the assessment of valuation of property
 - Order the production of relevant papers



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- The Board may hire additional field representatives and hearing examiners to assist the Board in performing its duties and functions.
- Representatives and examiners must be Level II or III certified.
- The number and compensation of representatives and examiners employed are subject to the appropriations for that purpose by the county council.



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- Representatives and examiners are afforded the same powers as members of the Board concerning the review of and hearings on an assessment.
- Representatives and examiners shall report their findings to the Board in writing.
- The Board can accept the representatives and examiner's recommendation or hold further hearings and take additional evidence.
- The Board makes the final decision on each matter.



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- The PTABOA shall, by mail, give notice of the date, time, and place fixed for the hearing to the taxpayer and the county or township official with whom the taxpayer filed the notice for review. (Form 114)
- The PTABOA may not require a taxpayer to file documentary evidence or summaries of statements of testimonial evidence before the hearing.
- Taxpayer may appeal to the IBTR if the hearing is not held by the PTABOA within 180 days of the appeal.
- Taxpayer may appeal to the IBTR within 45 days of the PTABOA decision.



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Question: So how do I, as a Board member, decide that a prima facie case has been made?

Answer: That decision must be determined on a case-by-case basis as the evidence and circumstances on each hearing will vary. Becoming familiar with the available resources, such as IBTR decisions, Tax Court decisions, etc. could be very helpful.

Question: Should the Board reschedule a hearing because the taxpayer is not prepared to properly present the necessary evidence?

Answer: This decision would be left up to the Board; however, the taxpayer should be prepared to present a case since it is their appeal so this type of delay should rarely happen.



PTABOA

Question: Is it the job of the Board to find something wrong in every appeal so that the assessed value can be reduced for every taxpayer who is unhappy?

Answer: No, decisions should be made based on the merits of the appeal and the evidence presented to the Board.

IC 6-1.1-13-3

Additions of undervalued or omitted property to list

Sec. 3. A county property tax assessment board of appeals shall, on its own motion or on sufficient cause shown by any person, add to the assessment lists the names of persons, the correct assessed value of undervalued or omitted personal property, and the description and correct assessed value of real property undervalued on or omitted from the lists.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.6-1997, SEC.62.



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Question: Should the Board visit the properties on appeal?

Answer: Conducting an on-site inspection would be a rare occurrence when considering the Board's use of time and budgetary constraints.

Question: What constitutes a quorum for the Board?

Answer: IC 6-1.1-28-1 states that a majority of the PTABOA that includes at least one (1) certified level two or level three assessor-appraiser constitutes a quorum.



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Question: Is the determination based on the majority of the quorum or the whole board?

Answer: IC 6-1.1-28-1(d) states, in pertinent part: “Any question properly before the board may be decided by the agreement of a majority of the whole board.”

Question: Can a taxpayer refuse to discuss the issues with a representative or examiner and request a hearing before the Board?

Answer: Yes. However, taxpayers may find that meeting with a representative or examiner will expedite the appeals process.



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IV. Common Issues/Problems:

A. **Evidence:** What type of evidence is required in the appeal process?

There are a variety of things a taxpayer may use/request to be considered in the appeals process, including:

- A USPAP compliant appraisal (NOTE: An appraisal is not required in the appeal process).
- Actual construction costs (both Direct and Indirect).
- The sale of the subject property (if an “arms-length” transaction).
- Sales of comparable properties.



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A. Evidence: NOTE: Per IN Code 6-1.1-15-18 (below), there are restrictions on the proximity of comparable properties:

IC 6-1.1-15-18

Value in use; evidence of comparable properties

Sec. 18.

- (a) This section applies to an appeal to which this chapter applies, including any review by the board of tax review or the tax court.
- (b) This section applies to any proceeding pending or commenced after June 30, 2012.
- (c) To accurately determine market-value-in-use, a taxpayer or an assessing official may:



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A. Evidence: NOTE con't:

- (1) in a proceeding concerning residential property, introduce evidence of the assessments of comparable properties located in the same taxing district or within two (2) miles of a boundary of the taxing district; and
- (2) in a proceeding concerning property that is not residential property, introduce evidence of the assessments of any relevant, comparable property.

However, in a proceeding described in subdivision (2), preference shall be given to comparable properties that are located in the same taxing district or within two (2) miles of a boundary of the taxing district.



PTABOA

A. Evidence: NOTE con't:

- The determination of whether properties are comparable shall be made using generally accepted appraisal and assessment practices.

As added by P.L.146-2012, SEC.5.

- “Taxpayer must explain how each piece of evidence relates to its requested assessment based on market value-in-use as of the relevant valuation date.”
- It is the taxpayer’s duty to walk the board through every element of the analysis.



PTABOA

A. Evidence: NOTE con't:

- An assessor cannot simply say that they reviewed the taxpayer's evidence and decided that it was not valid.
- They must be able to challenge it based on its merit and be able to demonstrate that the evidence lacks credibility.
- This challenge could be accomplished by identifying specific flaws in the taxpayer's evidence or by submitting evidence to demonstrate the flaws.



PTABOA

A. Evidence: NOTE con't:

- Appraisals need to be analyzed to determine sales comparables being used in relationship to subject property. Adjustments being made to these sales comparables also should be analyzed.
- For income producing properties, income and expense statements.

B. Specific Methodology: Some property types, such as Rental Properties, Low Income Housing, and Golf Courses are statutorily required to be assessed using prescribed methods (e.g., the income approach to value).



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- C. Who Can File an Appeal?:** The owner of record on the assessment date. Additionally, the Indiana Board of Tax Review (IBTR) has previously ruled that others with an interest in the property may file an appeal (i.e., a person other than the owner on the assessment date may file an appeal if they are responsible for the property taxes due for that assessment date, even though they may not have owned the property on the assessment date).
- D. What if an appeal is not timely filed?:** Although taxpayers ultimately may not be successful with their appeal, their due process rights should be upheld, and they should be allowed to file an appeal.



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E. Preliminary Hearing Procedures: Can the assessor have a set amount of time for each preliminary hearing (e.g., 15 minutes)?

Great deference is given to local control, meaning the local officials can determine a set timeframe, hearing schedule, or procedures for the preliminary hearing. Also, the PTABOA may determine their own procedural rules.

F. Taxpayer Representative Notification: Should the taxpayer representative be given notification of the PTABOA hearing? Could the taxpayer representative be assessed a \$50 penalty as a “no-show” even though he/she might not have received notice of the hearing?



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F. Taxpayer Representative notification: con't:

IC 6-1.1-15-1(k) If:

- (1) subsection (i)(2) applies; or
- (2) the county board does not receive a form referred to in subsection (i) not later than one hundred twenty (120) days after the date of the notice for review filed by the taxpayer under subsection (c) or (d); the county board shall hold a hearing on a review under this subsection not later than one hundred eighty (180) days after the date of that notice. **The county board shall, by mail, give at least thirty (30) days notice of the date, time, and place fixed for the hearing to the taxpayer and the county or township official with whom the taxpayer filed the notice for review. (Emphasis added)**



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F. Taxpayer Representative notification: con't:

Hence, the local officials are not required to notify the taxpayer representative of the hearing, although some counties will send a courtesy copy of the notice. It is incumbent upon the taxpayer to notify his/her tax representative of the hearing, and if the taxpayer or tax representative do not show up for the hearing, they could receive a \$50 “no show” penalty.

G. CPA Representation: Can a CPA file appeals on a taxpayer's behalf on real estate?

A CPA may only represent a client in a matter that relates only to personal property taxation. Otherwise, in order to represent a client, the CPA would need to be a certified tax representative, and would need to complete/file a Power of Attorney form.



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G. CPA Representation: con't:

50 IAC 15-5-1 Definitions

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-2-4; IC 6-1.1-15; IC 6-1.1-28-1; IC 6-1.1-30-11;
IC 6-1.5

Sec. 1. The following definitions apply throughout this rule:

- (1) "Practice before the property tax assessment board of appeals or the department" is the participation in all matters connected with a presentation to the property tax assessment board of appeals, the department, or any of their officers or employees relating to a client's rights, privileges, or liabilities under Indiana's property tax laws or rules. Such presentations include the following:



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G. CPA Representation: con't:

- (A) Preparing and filing necessary documents, except personal property returns.
 - (B) Corresponding and communicating with the property tax assessment board of appeals or the department.
 - (C) Representing a client at hearings, on-site inspections, and meetings.
- (2) "Property tax assessment board of appeals" is the county property tax assessment board of appeals established under IC 6-1.1-28-1.



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G. CPA Representation: con't:

(3) "Tax representative" is a person who represents another person at a proceeding before the property tax assessment board of appeals or the department. The term does not include:

- (A) the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) that is the subject of the appeal;
- (B) a permanent full-time employee of the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) who is the subject of the appeal;
- (C) representatives of local units of government appearing on behalf of the unit;



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G. CPA Representation: con't:

- (D) a certified public accountant, when the certified public accountant is representing a client in a matter that relates only to personal property taxation; or
 - (E) an attorney who is a member in good standing of the Indiana bar or any person who is a member in good standing of any other state bar and who has been granted leave by the department to appear pro hac vice.
- (4) "Indiana board" means the Indiana board of tax review established under IC 6-1.5, et seq.
(Department of Local Government Finance; 50 IAC 15-5-1; filed Dec 5, 2000, 2:32 p.m.: 24 IR 947; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1519) (Emphasis Added)



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H. Assessment Increases as a result of an appeal: Can an assessment increase as a result of an appeal?

Yes, per Indiana Code 6-1.1-9-4 (a), undervalued or omitted property may be increased within three years after the assessment date for that prior year (as long as proper notice is given to the taxpayer). The assessing official should; however, be prepared to defend the increase in the assessed value and possibly explain why the assessment has been increased.



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H. Assessment Increases as a result of an appeal:

IC 6-1.1-9-4

Prior year assessments; notice; bona fide purchasers; lien exemptions
Sec. 4.

- (a) Real property may be assessed, or its assessed value increased, for a prior year under this chapter only if the notice required by section 1 of this chapter is given within three (3) years after the assessment date for that prior year.
- (b) With respect to real property which is owned by a bona fide purchaser without knowledge, no lien attaches for any property taxes which result from an assessment, or an increase in assessed value, made under this chapter for any period before his purchase of the property. (Formerly: Acts 1975, P.L.47, SEC.1.)



PTABOA

I. Form 11 vs. Tax Statement:

When can a Tax Statement be used in lieu of a Form 11 to file an appeal?

IC 6-1.1-4-22

Amounts of assessment or reassessment; notice

- (a) If any assessing official assesses or reassesses any real property under this article (including an annual adjustment under section 4.5 of this chapter), the official shall give notice to the taxpayer and the county assessor, by mail or by using electronic mail that includes a secure Internet link to the information in the notice, of the amount of the assessment or reassessment.



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- (b) Each township or county assessor shall provide the notice required by this section by the earlier of:
- (1) ninety (90) days after the assessor:
 - (A) completes the appraisal of a parcel; or
 - (B) receives a report for a parcel from a professional appraiser or professional appraisal firm; or
 - (2) April 10 of the year containing the assessment date for which the assessment or reassessment first applies, if the assessment date occurs in a year that ends before January 1, 2016, and February 10 of the year containing the assessment date for which the assessment or reassessment first applies, if the assessment date occurs in a year that begins after December 31, 2015.



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- (c) The notice required by this section is in addition to any required notice of assessment or reassessment included in a property tax statement under IC 6-1.1-22 or IC 6-1.1-22.5.
- (d) The notice required by this section must include notice to the person of the opportunity to appeal the assessed valuation under IC 6-1.1-15-1.
- (e) Notice of the opportunity to appeal the assessed valuation required under subsection (d) must include the following:
 - (1) The procedure that a taxpayer must follow to appeal the assessment or reassessment.



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- (2) The forms that must be filed for an appeal of the assessment or reassessment.
- (3) Notice that an appeal of the assessment or reassessment requires evidence relevant to the true tax value of the taxpayer's property as of the assessment date.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1977, P.L.64, SEC.2; P.L.6-1997, SEC.19; P.L.146-2008, SEC.76; P.L.136-2009, SEC.4; P.L.112-2012, SEC.16; P.L.111-2014, SEC.13.



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IC 6-1.1-15-13

Tax bill as notice

Sec. 13. If notice of the action of a board or official is not otherwise given in accordance with the general assessment provisions of this article, the receipt by the taxpayer of the tax bill resulting from that action is the taxpayer's notice for the purpose of determining the taxpayer's right to obtain a review or initiate an appeal under this chapter.

(Formerly: Acts 1975, P.L.47, SEC.1.)



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B. We are having an issue with receiving returned Form 11s in the mail. Form 11s are returned and many of these have no postmark date. How do we handle taxpayers who are still receiving Form 11s that do not have a postmark date or receive them with late postmarks (i.e., well after the appeal filing deadline and/or tax bill)?

There are a few options:

- If all of the Notices of Assessment were sent out at the same time, and the county established a certain date for filing appeals, if a taxpayer did not file an appeal by the deadline, they could not file an appeal for that particular year. In other words, even though there may not be a



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postmark on the Notice, in order to be fair and consistent, it would be the same filing deadline for everyone, regardless if they received a Notice of Assessment. Even though there may not be a postmark date – there should have been a date on the Form 11 itself. However, you could afford the taxpayer their due process, and allow them to go ahead and file an appeal, knowing that in all likelihood it will be denied for failing to file a timely appeal, and if the PTABOA agrees, then the taxpayer could file an appeal of the determination to the IBTR.



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- Since the postmark date of the Notice of Assessment may not be known, or there is a May postmark date, as an alternative for taxpayers in this situation, the tax bill could have served as the first notification of the change in assessment. Therefore, instead of trying to estimate if there was a postmark or the postmark date on the Notices, in order to be fair/consistent, for those taxpayers that fall in this category, you could establish a 45 day timeframe from the date of the tax bills.



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- For each individual taxpayer/Notice of Assessment that falls into this category, set a 45 day timeframe from the postmark date to determine if they filed a timely appeal. For those Notices without a postmark, it is obviously difficult to determine when they were mailed out – unless the date is on the Notice. Although deference is given to local control, this would probably be the least viable option to consider.



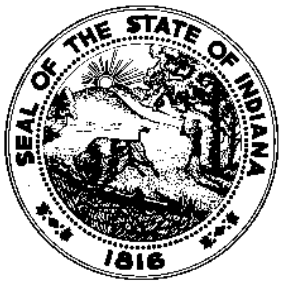
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- There are three recent IBTR Determinations (among many) pertaining to the timeliness of filing an appeal:

http://www.in.gov/ibtr/files/Kirk_15-006-11-1-5-00564.pdf

http://www.in.gov/ibtr/files/Kirk_15-006-11-1-5-00564.pdf

http://www.in.gov/ibtr/files/Huisman_15-007-11-1-5-00579.pdf



Questions

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